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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/526,098

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Yves Chatrenet

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EXAMINER

TOWA, RENE T

ART UNIT

PAPER NUMBER

3736

MAIL DATE

DELIVERY MODE

10/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/526,098	Applicant(s) CHATRENET, YVES	
	Examiner RENE TOWA	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is responsive to an amendment filed March 7, 2008. Claims 12-25 are pending. Claims 12-25 are pending. Claims 12-13, 15-16 and 19. New claims 23-25 have been added. Claims 1-11 have been cancelled.

Claim Rejections - 35 USC § 112

2. The rejections are withdrawn due to amendments.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

“A system” as used hereinafter is intended to mean “a method” and/or “a device for its practice”

4. **Claims 12-14, 16 & 24-25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (US 5,174,402) in view of Popov (EP 1 183 996), Livingston (US 6,227,047), and further in view of Sato et al. (US 5,415,176).

Chen discloses a device, comprising:

a lower support base 3 adapted to support a standing patient in plantar support on said lower support base 3,

an upper support bracket 15 movable vertically above the lower support base 3 and conformed to bear vertically on the head of said patient,

means (11, 14) for selectively immobilizing the upper bearing bracket 15 in vertical position,

means 15 for measuring the vertical position of the upper support bracket 15,
and

plantar support sensors 18 in the lower support base 3 adapted;

wherein the system has a vertical column 31 which carries the upper support bracket 15 and connects it to the lower support base 3;

wherein the system further comprises a computation unit 22 associated with memory means and display means (221, 222) and receiving signals from the vertical position measuring means 15 and the plantar support sensors 18 of the lower bearing base 3 (see figs. 1-7; col. 1, lines 6-15 & 35-55; col. 2, lines 20-42).

Chen discloses a system, as described above, that fails to explicitly teach a muscle strength, self-stretching, or a force measuring technique.

However, **Popov** discloses a self-stretching method, comprising the steps of:

a) placing the patient in a supine or standing position on the lower support base 8a,

c) measuring the amplitude of self-stretching of the patient by allowing the upper support bracket 6 to slide up and down according to vertical movements of the head of the patient and storing successive positions of the upper support bracket 6,

d) determining the maximum self-stretching value corresponding to the highest position recorded during the previous step,

f) measuring the self-stretching forces by storing the lifting value exerted by the head of the patient on the upper support bracket 6 when the latter is immobilized vertically (see figs. 1-3; see translated paragraphs 002-003 & 005-006).

Moreover, **Livingston** discloses muscle strength measuring system comprising a means (i.e. loading cell) capable of measuring vertical force that the head of a patient applies thereon;

wherein the system further comprises a computation unit 222 associated with memory means 218 and display means (216, 220) and receiving signals from the load cell (see figs. 1-3c & 8a-9b; col. 1, lines 6-16; col. 3, lines 11-17 & 52-67; col. 4, lines 58-64; col. 5, lines 21-33; col. 6, lines 54-63; col. 13, lines 26-65).

Even moreover, **Sato et al.** disclose health monitoring device comprising a means for measuring a height, weight and impedance of a user so as to provide a body fat measurement of the user; wherein the system further includes plantar support sensors (2, 3) for testing for maintained normal plantar support of the foot or feet of the patient by producing a signal (i.e. impedance) if the foot or feet are longer in normal plantar support (see fig. 1; col. 4, lines 14-21 & 48-53; col. 5, lines 16-22).

In regards to **claims 12-14, 16 & 24:**

Since Chen teaches a body height measurement device and Popov teaches a self-stretching technique to promote height growth, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to modify the system of Chen to include a self-stretching technique as taught by Popov in order to promote patient growth.

Similarly, since Popov teaches a self-stretching exercising technique, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide the system of Chen as modified by Popov, above, with a muscle

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strength measuring system as taught by Livingston in order to evaluate the isometric strength of the patient's muscles.

Moreover, since it is known that one of the major shortcomings of measuring the total height of a patient to detect growth includes errors associated spine compression and head posture (see col. 1, lines 12-45 of US 4,883,066), it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide the system of Chen as modified by Popov and Livingston above, with a means for measuring the vertical force of the patient in order to simultaneously establish the degree of spine compression, head posture and height of the patient so as to respectively determine what level of spine compression results in a given height.

Even moreover, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide the system of Chen as modified by Popov and Livingston with a computing unit, storage, and display unit as taught by Livingston in order to store and display the measured force and/or height.

Even moreover yet, both Chen and Sato et al. teach health monitoring devices for measuring body weight and height, it would have been obvious to one of ordinary skill in the art the time Applicant's invention was made to provide the system of Chen as modified by Popov and Livingston, above, with means for testing for maintained normal plantar support of the foot or feet of the patient as suggested by Sato et al. in order to achieve a system that measures not only the accurate height and weight of the user but also the impedance thereof thereby ascertaining that the patient only stretches the spine and neck region without raising the posterior area of the foot thereby resulting in

an accurate height and/or growth measurement; moreover, when a patient raises the plantar area of the foot, an open circuit occurs resulting in a failure to measure the impedance measurement, which thereby simultaneously assures that a patient's soles are consistently in contact with the weight measurement device before any measurement can take place.

5. **Claims 15 & 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen ('402) in view of Popov ('996), Livingston ('047), Sato et al. ('176), and further in view of Minkow et al. (US 4,711,448).

Chen as modified by Popov, Livingston and Sato et al. teaches a system, as described above, that fails to explicitly teach an isometric exercise method.

However, **Minkow et al.** disclose a system comprising an anterior support 64 adapted to constitute a frontal bearing against which the anterior base of the thigh of the patient can bear on flexing by less than 30° or less than 20° (see figs. 1 & 3B).

Since Livingston teaches a system for evaluating a variety of muscles, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to modify the system of Chen as modified by Popov, Livingston and Sato et al. above, to include an anterior support as taught by Minkow et al. in order to exercise the muscles of the thighs.

Similarly, since Livingston teaches a system wherein a plurality of forces associated with a variety of body portions are measured via load cell during testing, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to modify the system of Chen as modified by Popov, Livingston,

Sato et al. and Minkow et al. above, to include an anterior support with a means for measuring the forward muscular force of the thigh in order to evaluate isometric strength thereof.

6. **Claims 17 & 19-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen ('402) in view of Popov ('996), Livingston ('047), Sato et al. ('176), and further in view of Wiley (US 5,398,696).

Chen as modified by Popov, Livingston and Sato et al. teaches a system, as described above, that fails to explicitly teach an isometric exercise method.

However, **Wiley** discloses a force exercise method comprising the steps of:

- g) recording a maximum force,
- h) & i) selecting a force threshold lower than the maximum force,
- i) determining the maximum endurance time by measuring the maximum time for which a force greater than or equal to the force threshold is maintained;

wherein the system further comprises comprising a computation unit associated with memory means and display means, the memory means containing a stored program for controlling the computation unit, the stored program including in particular an isometric exercise sequence;

- j) in an intermittent contraction mode, generating an intermittent signal detectable by the patient to prompt alternate contractions and relaxations and counting the number of contraction reaching the force threshold after a sufficient relaxation characterized by a sufficiently low lifting force;

m) wherein the stored program includes an endurance measurement sequence for measuring the time for which an appropriate applied force is maintained (see abstract; col. 3, lines 1-60).

Since Livingston teaches an isometric force measuring method, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide the system of Chen as modified by Popov, Livingston and Sato et al. above, with an isometric exercise method as taught by Wiley in order to simultaneously lower the patient's resting blood pressure during exercise.

7. **Claim 18 & 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen ('402) in view of Popov ('996), Livingston ('047), Sato et al. ('176), Minkow et al. ('448), and further in view of Wiley ('696).

Chen as modified by Popov, Livingston, Sato et al. and Minkow et al. teaches a system, as described above, that fails to explicitly teach an isometric exercise method.

However, **Wiley** discloses a force exercise method comprising the steps of:

- g) recording a maximum force,
- h) & i) selecting a force threshold lower than the maximum force,
- i) determining the maximum endurance time by measuring the maximum time for which a force greater than or equal to the force threshold is maintained;

wherein the system further comprises comprising a computation unit associated with memory means and display means, the memory means containing a stored program for controlling the computation unit, the stored program including in particular an isometric exercise sequence;

j) in an intermittent contraction mode, generating an intermittent signal detectable by the patient to prompt alternate contractions and relaxations and counting the number of contraction reaching the force threshold after a sufficient relaxation characterized by a sufficiently low lifting force;

m) wherein the stored program includes an endurance measurement sequence for measuring the time for which an appropriate applied force is maintained (see abstract; col. 3, lines 1-60).

Since Livingston teaches an isometric force measuring method, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide the system of Chen as modified by Popov, Livingston, Sato et al. and Minkow et al. above, with an isometric exercise method as taught by Wiley in order to simultaneously lower the patient's resting blood pressure during exercise.

Response to Arguments

8. Applicant's arguments filed March 7, 2008 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RENE TOWA whose telephone number is (571)272-8758. The examiner can normally be reached on M-F, 8:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 3736

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Supervisory Patent Examiner, Art Unit 3736